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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,351	06/28/2001	Mark Thomas Dawson		2176
M. Dawson 10750 Oregon Ave Culver City 02302 Los Angeles, CA 02110				
7590 10/17/2008			EXAMINER LE, BRIAN Q	
			ART UNIT 2624	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/892,351

**Applicant(s)**

DAWSON, MARK THOMAS

**Examiner**

BRIAN Q. LE

**Art Unit**

2624

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53-58, 80, 86, 111 and 112 is/are pending in the application.
- 4a) Of the above claim(s) 111 and 112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-55, 57-58, 80 and 86 is/are rejected.
- 7) ☐ Claim(s) 56 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/3508)           | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

### **Response to Amendment and Arguments**

1. Applicant's amendment filed September 02, 2008, has been entered and made of record.

2. Applicant's arguments with regard to claims 53-58, 80, and 86 have been fully considered, but are not considered persuasive because of the following reasons:

Regarding page 7 of the Remarks, the Applicant argues that the cited prior art results in anaglyph images with no pure blue or red pixels, and or, an R/GB anaglyph with a bright green image plane. The Examiner respectfully disagrees. First, the Examiner would like to point out that none of the claims are claiming anaglyph images with "pure blue or red pixels, and or, an R/GB anaglyph with a bright green image plane". Secondly, even though the claims are not claiming this concept, McLaine still teaches a concept of pure colors (pure color regions, abstract) and thus could have been used to teach this limitation.

Also, McLaine teaches a concept of the stereo pair in preparation for the application of anaglyphic color changes (column 6, lines 50-62) as to "improved results of balanced contrasts" of RGB vs. RGB disclosed by the Applicant (Remarks, Page 7).

For other arguments addressed in previous years, the Applicant is advised to refer back to previous Office Actions for further explanations and considerations.

The Examiner believes that all the arguments of the Applicant have been properly addressed and explained. Thus, the rejections of all of the claims are maintained.

***Election/Restrictions***

3. Newly submitted claims 111-112 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims 111-112 (similarly to claims 59-60 which restricted as Species II and III) drawing to restricted species as the Restriction Office Action filed 11/22/2006 clearly explained.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 111-112 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Specification***

4. As indicated in the previous Office Action filed 07/31/2007, the amendment filed 05/25/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amended specification submitted 05/25/2007 regarding the amendment of filter values introduces new filter values and thus introduces new matter into the disclosure. According to 35 U.S.C. 132 (a) states that no amendment shall introduce new matter into the disclosure of the invention.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 86 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 86, nowhere in the specification discloses the new claim "...where said selective color treatment and said allocating of color channels are effected to each image of said image pair in a single sweep.". The support for "single sweep" was found; however, in the context as cited in the claim, the specification does not provide the disclosure as claimed.

The Applicant is required to show the exact location (page number and line number) for the amended limitations and new claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 53-55, 58, 80 and 86 are rejected under 35 U.S.C. 102(b) as being anticipated by McLaine et al. (U S Patent 6,037,971).

As to claim 53 [As best understood by the Examiner], McLaine discloses anaglyphic production method for anaglyphic record, including steps of,

- a. isolating or synchronizing images to achieve an image pair that consists of a first image or images and a second image or images [two related images (pair) captured by two separate left and right cameras (Fig. 4, col. 7, lines 9-15),
- b. effecting selective color treatment to color records within said image pair to enable an anaglyphic perception (a process of adjusting/correcting colors to compensate the over or underexposure of anaglyphic image) (abstract; column 3, lines 20-25; and column 4, lines 30-38) of broad spectrum (range of intensity levels) (column 5, lines 60-65) contrast balance between the said image pair [the level of intensity (contrast) of the red color is examined to determine the percentage of color values fall at the upper (maximum) and lower (minimum) ends of the red color value and adjust it (col. 7, lines 37-col. 8, line16)],
- c. allocating a first anaglyphic color channel to said first image or images [Fig. 4, a red color channel (first anaglyphic color channel) is allocated by the color separator to the first image from the first camera)] and allocating second and third anaglyphic color channels to said second image or images resulting in spectrally opposed anaglyphic color channels [[Fig. 4, a green and blue color channels (second and third anaglyphic color channels) are allocated by the color separator to the second image from the second camera), R,G,B, are spectrally opposed color channels].
- d. blending the said image pair as a single anaglyphic image [Fig.4, color plane combiner combines the red image plane with the blue-green image planes to create a single 3D anaglyphic representation (col. 5, lines 9-13, col. 7, lines17-24).

As to claim 54, McLaine further discloses, where contrast or brightness of the anaglyphic image is optimised (col. 7, line 54-col. 8, line16).

As to claim 55, McLaine further discloses, where said selective color treatments are applied either to individual color records or to the entire color records of said image pair (col. 8, lines 4-17).

As to claim 58, McLaine further discloses anaglyphic image produced (col. 4, lines 19-23).

Claim 80 is an apparatus analogous to claim 53 method and arguments applied to claim 53 are applicable to claim 80.

For claim 86, McLaine teaches Anaglyphic production where said selective color treatment and said allocating of color channels are effected to each image of said image pair in a single sweep (frame grabber) (column 3, lines 39-44).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLaine et al. (U. S. Patent 6,037,971) as applied to claim 53 above, and further in view of Swift et al. (US 2005/0078108).

As to claim 57 [As best understood by the Examiner], McLaine is selectively optimizing the color value of color records (red and/or green) in the pair of images (Col. 4, lines 14-23). The color value is a color intensity (overall brightness of the color) optimized to the nth degree (col.

6, lines 37-41, col. 8, lines 4-17). McLaine does not explicitly disclose an anaglyphic production where the brightness and contrast of said image pair is reduced.

Swift discloses an anaglyph method includes left and right images which also allow a capability of control the brightness and contrast of images (page 4, column 1, [0046]). Modifying McLaine's anaglyphic production method according to Swift would be able to adjust or reduce brightness and contrast of image pair. This would improve processing because it would adjust brightness/contrast level to accommodate the physical viewing mechanism and to compensate for uneven image luminance between the left and right eyes (page 4, column 1, [0046]) and therefore, it would have been obvious to one of the ordinary skill in the art to modify McLaine according to Swift.

#### *Allowable Subject Matter*

11. Claim 56 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### ***Contact Information***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Q. Le whose telephone number is 571-272-7424. The examiner can normally be reached on 8:30 A.M - 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Werner can be reached on 571-272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Brian Q Le/

Primary Examiner, Art Unit 2624

October 20, 2008